IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	10/687,357	**Art Unit:**	2454
Inventors:	SINGER, Mitch *et al.*	**Examiner:**	Joo, Joshua
Filed:	October 15, 2003	**Confirmation No.:**	9265
Title:	**MEDIA NETWORK ENVIRONMENT**	**Docket No.:**	113748-4745US

APPEAL BRIEF (37 C.F.R. § 41.37)

Mail Stop Appeal Brief - Patents
US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is an Appeal from the rejection of claims 1-21 in the final office action of June 4, 2010, relating to the above-referenced application.

(i) Real Parties in Interest

Sony Corporation and Sony Pictures Entertainment Inc., assignees of the present application, are the real parties in interest.

(ii) Related Appeals and Interferences

There are no related appeals and/or interferences currently pending.

(iii) Status of Claims

Claims 1-21 are pending in the case. Claims 1-21 have been rejected. Claims 1-21 are appealed herein.

The present application was filed on October 15, 2003 with claims 1-21. In an amendment dated January 10, 2008 (in response to the office action dated October 10, 2007), no claims were amended. In an amendment dated July 9, 2008 (in response to the office action dated April 9, 2008), claims 1-3, 15, 16, and 18 were amended. In an amendment dated March 3, 2009 (in response to the office action dated October 3, 2008), claims 1-17 and 21 were amended. In an amendment dated September 29, 2009 (in response to the office action dated May 29, 2009), claims 1, 2, 4, 9-12, 15, 16, 18, and 21 were amended. In an amendment dated March 8, 20010 (in response to the office action dated December 7, 2009), claims 1, 10, 11, 13, 15-16, and 18 were amended. In an amendment dated October 4, 2010 (in response to the office action dated June 4, 2010), claims 1, 9, 15, 16, and 18 were amended. In an Advisory Action dated October 20, 2010, the Examiner stated that the proposed amendment to the claims will not be entered. No further claim amendments have been made.

(iv) Status of Amendments

No further amendments were submitted after submitting a response (to the final office action dated June 4, 2010) dated October 4, 2010.

(v) Summary of Claimed Subject Matter

A. Claim 1 – A network comprising:

a) a first hub network including a first server, a first client, and a second client, (Specification as filed, Page 16, lines 9-15)

b) wherein said first server is connected to said first client and said second client; (Specification as filed, Page 16, lines 9-15)

c) a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap, (Specification as filed, Page 15, line 15 to Page 16, line 4)

d) wherein two hub networks overlap when both of the hub networks include at least one same device; (Specification as filed, Page 15, line 15 to Page 16, line 4)

e) wherein said first client stores first content bound to said first hub network and stores second content bound to said second hub network, and (Specification as filed, Page 5, line 28 to Page 6, line 14)

f) wherein content bound to a hub network is represented by locked content data and corresponding licenses stored on a server connected to the hub network, and the bound content can only be played or presented through a compatible compliant device that is bound to the hub network, (Specification as filed, Page 18, lines 1-9)

g) wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network, and (Specification as filed, Page 18, lines 1-9)

h) wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance. (Specification as filed, Page 5, line 28 to Page 6, line 14)

B. Claim 12 – The network of claim 9, wherein a local environment for a hub network is defined by travel time of packets within a hub network of the member. (Specification as filed, Page 4, line 31 to Page 5, line 8)

C. Claim 15 – A network comprising:

a) a first hub network including a first server, a first client, and a second client, (Specification as filed, Page 16, lines 9-15)

b) wherein said first server is connected to said first client and said second client; (Specification as filed, Page 16, lines 9-15)

c) a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap, (Specification as filed, Page 15, line 15 to Page 16, line 4)

d) wherein two hub networks overlap when both of the hub networks include at least one same device; (Specification as filed, Page 15, line 15 to Page 16, line 4)

e) wherein said first server stores first content in a first source version of locked content data, (Specification as filed, Page 14, lines 19-31)

f) said first server stores a first root license bound to said first hub network for said first source version, (Specification as filed, Page 14, lines 19-31)

g) said second server stores second content in a second source version of locked content data, (Specification as filed, Page 14, lines 19-31)

h) said second server stores a second root license bound to said second hub network for said second source version, (Specification as filed, Page 14, lines 19-31)

i) said first client receives said first content streamed from said first source version by said first server, and (Specification as filed, Page 9, line 24 to Page 10, line 3)

j) said first client receives said second content streamed from said second source version by said second server, and (Specification as filed, Page 9, line 24 to Page 10, line 3)

k) wherein a source version of locked content data which is bound to a hub network by a root license can only be played or presented through a compatible compliant device that is a member of the hub network, (Specification as filed, Page 14, lines 19-31)

l) wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network, and (Specification as filed, Page 18, lines 1-9)

m) wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance. (Specification as filed, Page 18, lines 1-9)

D. Claim 16 – A network comprising:

a) a first hub network including a first server; (Specification as filed, Page 16, lines 9-15)

b) a second hub network including a second server and said first server, and said second server is connected to said first server, such that said first hub network

and said second hub network overlap, (Specification as filed, Page 15, line 15 to Page 16, line 4)

c) wherein two hub networks overlap when both of the hub networks include at least one same device; (Specification as filed, Page 15, line 15 to Page 16, line 4)

d) wherein said first server stores a first license and a first version of locked content data, and said first version stores first content, (Specification as filed, Page 14, lines 19-31)

e) said first server stores a second license and a second version of locked content data, and said second version stores second content, (Specification as filed, Page 14, lines 19-31)

f) said first license is bound to said first hub network, (Specification as filed, Page 14, lines 19-31)

g) said second license is bound to said second hub network, and (Specification as filed, Page 14, lines 19-31)

h) wherein a version of locked content data which is bound to a hub network by a license can only be played or presented through a compatible compliant device that is a member of the hub network, (Specification as filed, Page 18, lines 1-9)

i) wherein said second server bound to said second hub network can play or present the second content whose second license is bound to said second hub network, but cannot play or present the first content whose license is bound to said first hub network, and (Specification as filed, Page 18, lines 1-9)

j) wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a

discrete instance. (Specification as filed, Page 18, lines 1-9)

E. Claim 18 – A hub network, comprising:

a) a server storing a root license and a source version of locked content data; (Specification as filed, Page 14, lines 19-31)

b) a client connected to said server, and storing a first license, a first sub-copy version of locked content data, a second license, and a second sub-copy version of locked content data; (Specification as filed, Page 5, line 28 to Page 6, line 14)

c) wherein said source version of locked content data stores first content, (Specification as filed, Page 5, line 28 to Page 6, line 14)

d) said root license is bound to said hub network, (Specification as filed, Page 14, lines 19-31)

e) said first sub-copy version stores said first content, (Specification as filed, Page 14, lines 19-31)

f) said first license is bound to said hub network, (Specification as filed, Page 14, lines 19-31)

g) said second sub-copy version stores second content, and (Specification as filed, Page 14, lines 19-31)

h) said second license is bound to a second hub network, (Specification as filed, Page 14, lines 19-31)

i) wherein a source version of locked content data which is bound to said hub network by a root license can only be played or presented through a compatible compliant device that is a member of said hub network, (Specification as filed, Page 14, lines 19-31)

j) wherein said second sub-copy version bound to said second hub network by said

second license cannot be played or presented through the device that is a member of said hub network, and (Specification as filed, Page 18, lines 1-9)

k) wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance. (Specification as filed, Page 18, lines 1-9)

(vi) Grounds of Rejection to be Reviewed on Appeal

A. Whether claims 1-11 and 13-21 are unpatentable over Elabbady et al. (U.S. Patent No. 7,483,958; hereinafter referred to as "Elabbady"), in view of Peinado (U.S. Patent No. 7,073,063) under 35 U.S.C. § 103(a).

B. Whether claim 12 is unpatentable over Elabbady and Peinado, in view of Rofheart et al. (U.S. Patent No. 7,058,414; hereinafter referred to as "Rofheart") under 35 U.S.C. §103(a).

(vii) Argument

A. Claims 1-11 and 13-21 are patentable over Elabbady in view of Peinado under 35 U.S.C. § 103(a)

In the final office action dated June 4, 2010 ("the Office Action"), claims 1-11 and 13-21 are rejected over Elabbady in view of Peinado under 35 U.S.C. § 103(a). As explained in the Manual of Patent Examination Procedure §706.02, entitled Rejection on Prior Art, for obviousness under 35 U.S.C. §103, "to support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." As set forth in detail below, the outstanding rejections are improper because the cited references do not suggest the claimed invention either explicitly or impliedly, or the examiner did not present a con-

vincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the cited references.

Regarding claim 1, for example, it recites:

> A network comprising:
>
> (a) a first hub network including a first server, a first client, and a second client,
>
> (b) wherein said first server is connected to said first client and said second client;
>
> (c) a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap,
>
> (d) wherein two hub networks overlap when both of the hub networks include at least one same device;
>
> (e) wherein said first client stores first content bound to said first hub network and stores second content bound to said second hub network, and
>
> (f) wherein content bound to a hub network is represented by locked content data and corresponding licenses stored on a server connected to the hub network, and the bound content can only be played or presented through a compatible compliant device that is bound to the hub network,
>
> (g) wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network, and
>
> (h) wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance.
>
> (Limitation designators and emphasis added for easy reference)

The Office Action cites col. 7, lines 50-67; col. 10, lines 29-35; and col. 10, lines 39-63 of Elabbady to indicate that Elabbady shows the concept of "bound content" of present claim 1:

> [Col. 7, lines 50-67] It is preferred that media content sharing environment 200 be configured to provide appropriate protection for copyrighted media content that may be shared between the various networked devices. Thus, in accordance with certain implementations of the present invention, media LS 207 employs a media content license scheme that essentially requires that a proper license exists to process/play the media content. The media content license may be associated with an individual media content file or with multiple media content files. The media content license may also or alternatively be associated with a specific media holding/playing device or with multiple media holding/playing devices. The media content license may also or alternatively be associated with a specific entity or with multiple entities (e.g., groups). The term "entity" is meant to represent any identifiable account, user, group, organization, company, etc., that may in some way seek to use a device to hold and/or play or otherwise process media content.
>
> [Col. 10, lines 29-35] Here, in act #6, HTTP client 318 requests a selected media content file. For example, an HTTP GET (URL) or File 10 (UNC) command may be used. The request is handled by a corresponding content server 320 within device 206. Content server 320 accesses the selected media content file, which in this example, is stored in content database 322.
>
> [Col. 10, lines 39-63] Client 316 has now received the selected media content file from device 206 over network 204 (e.g., FIG. 2A). In act #9, the media content file is provided to a media decoder/player function 324, which attempts to decode the file and play it. If media decoder/player function 324 does not have a necessary license for the media content file, should it be protected, then in act #10 a corresponding license request is initiated by license client 326. License client 326 request a media playing license from a license generator 312 of network device manager 302 of device 202. … If the license

> generator is satisfied that device 300 is properly registered, then in act #14, license generator 312 requests a license from a DRM client 316. DRM client 316 determines if a license is available and returns the license to license generator 312. License generator 312 then provides the license to license client 326, in act #15. The license is then provided to media decoder/player 324, which can then proceed with the decoding and playing of the media content file.
>
> (Emphasis added for easy reference)

The Office Action further states that "media content file is protected and license on media sharing device is needed to play. License may be associated with device. Determine that device 300 is registered."

The above passages show that Elabbady "employs a media content license scheme that essentially requires that a proper license exists to process/play the media content." The license is associated with the content or with a specific entity or with multiple entities (e.g., groups), wherein the term "entity" is meant to represent any identifiable account, user, group, organization, company, etc., that may in some way seek to use a device to hold and/or play or otherwise process media content. However, the Elabbady's license scheme requires the media device to check the license that is associated with the content or entity before playing the content.

In contrast, the "bound content" concept of the present claims "binds" the content to a particular hub network by storing the license for the content and the content itself in a storage device residing within the particular hub network. Once the content is "bound" to the particular hub network, any compatible compliant device that is bound to that particular hub network can play or present the content on the device. In light of the above definition, Elabbady fails to teach or suggest the concept of the "bound content."

Regarding limitations (c) and (d) of claim 1, they recite "a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap, wherein two

hub networks overlap when both of the hub networks include at least one same device". These limitations are disclosed in at least page 15, line 15 to page 16, line 4 of the specification as filed. These passages are recited here as follows:

> [Page 15, lines 15-27] When a media network environment includes two or more hub networks, some or all of the hub networks may overlap. Two hub networks overlap when both of the hub networks include the same device or devices. A device belonging to two hub networks spans the hub networks and is a spanning device. A spanning device stores (or can store) content data for instances bound to each of the hub networks. Accordingly, the spanning device can present content bound to multiple respective hub networks (a bound instance is bound to only one hub network). In one implementation, however, a spanning device spans multiple hub networks only in the same local environment. In this case, if a device becomes a member of hub networks in different local environments, the device will only present content from the hub network to which the device has been most recently connected. In another implementation, a spanning device may span hub networks in different local environments and play content from any of the spanning device's hub networks (subject to license requirements, such as refreshing, as discussed below).
>
> [Page 15, line 28 to Page 16, line 4] The overlapping hub networks provide a flexible environment for managing the use and copying of content. Each server manages the devices and content in the server's hub network and each client operates in compliance with the rules of the hub network. As a result, a user can present, move, and copy content data through the media network environment in a convenient manner and at the same time the presentation, copying, and moving of the content data is controlled to reflect the licensing guidelines set for a licensing authority (e.g., by the content owner). In addition, the management of each hub network is grounded in the server of the hub network.

The Office Action indicates that Elabbady discloses these limitations ((c) and (d) of claim 1) in col. 5, lines 24-31; col. 5 line 66 to col.6, line 4; and col. 9, lines 28-35 and 39-63. The Office Action further states that Elabbady shows "more than one media sharing

device connected to a media playing device, e.g. device 300 communicates with both devices 202a and 202d." The quoted passages are recited here:

> [Col. 5, lines 24-31] Attention is now drawn FIG. 2A, which is a block diagram depicting a media content sharing environment 200 having a plurality of networked devices including a first device 202 that is configured to provide a media cataloging service (CS) over a network 204 with/for other devices 206a-d that are configured to act as media players and/or provide media library services (LSs), in accordance with certain exemplary implementations of the present invention.
>
> [Col. 5 line 66 to Col.6, line 4] Devices 202, 206a-d (and later devices 202', 206e-h, and 300) are representative of a variety of different devices that can be used to provide features/capabilities associated with sharing media content in accordance with the methods and systems provided herein. An exemplary list of some of the types of devices that may be used was provided earlier.
>
> [Col. 9, lines 28-35 and 39-63] FIG. 2B is a block diagram depicting a similar media content sharing environment 200' having a plurality of networked devices including at least two devices, 202' and 206e, configured to provide media cataloging services (CSs), one device 206g configured to provide media library services (LSs), and two other devices, 206f and 206h configured as media playing devices, in accordance with certain other exemplary implementations of the present invention. … In certain preferred implementations, only one of the media CSs will be active in generating a media catalog. Thus, for example, the first device with media CS 203 to join network 204 will be operative in gathering metadata and publishing the corresponding media catalog. If the first device leaves network 204, then the next senior media CS 203 will take over the cataloging function. If no media CS 203 is on network 203, then playing devices 206b and 206h will need to access the media library 207 provided by device 206g. … Reference is now made to FIG. 3, which is a block diagram illustrating certain features and/or functions associated with certain devices, e.g., as in FIGS. 1, and/or 2A-B, that are configured to share media content, in accordance with certain exemplary implementations of the present invention.

> … As shown, device 202 includes a media CS 203 and has generated at least one media catalog 205. Device 206 is provided with a media LS 207 and other functions as described below. A device 300 is also shown. Device 300 is representative of a device that is configured to play (or otherwise process) shared media content. Devices 202, 206 and 300 are operatively interconnected, for example, through a network (not shown) like network 204. … To illustrate certain features of these devices, an exemplary media content selection and playing process is illustrated by the arrows between blocks.

In contrast to limitations (c) and (d) of claim 1, which recite overlapping hub networks, the above-recited passages of Elabbady merely disclose an "environment 200 having a plurality of networked devices." A plurality of overlapping hub networks (recited in claim 1) is not merely a plurality of networked devices but overlapping hub networks, wherein each hub network includes multiple servers and clients, and provides bound instances of content within said each hub network.

Regarding limitations (f) and (g) of claim 1, they recite that "wherein content bound to a hub network is represented by locked content data and corresponding licenses stored on a server connected to the hub network, and the bound content can only be played or presented through a compatible compliant device that is bound to the hub network, wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network". These limitations are disclosed in at least page 5, line 28 to page 6, line 14 and page 18, lines 1-9 of the specification as filed. These passages are recited here as follows:

> [Page 5, line 28 to Page 6, line 14] As discussed below, an instance that is compliant with hub network operation is in one of two exclusive states: discrete or bound. A discrete instance is independent of any hub network and can be played or presented through any compliant device (according to the license of the discrete instance). However, a compliant device cannot make a usable copy of a discrete instance. … A bound instance can only be played or

> presented through a compatible compliant device that is a member of that hub network. …
>
> [Page 18, lines 1-9] The storage device 1730 is connected to the server device 1715 (e.g., is inserted into a port) and so can exchange data with the server device 1715. Accordingly, the storage device 1730 and the server device 1715 can exchange discrete instances. The storage device 1730 is connected to the player device 1735 and the player device 1735 can present non-compliant copies of content data stored in the storage device 1730. Because the player device 1735 is a non-compliant device, the player device 1735 cannot play or present compliant content data stored on the storage device 1730. The storage device 1730 cannot make usable copies from discrete instances stored on the storage device 1730.

The Office Action indicates that Elabbady discloses these limitations ((f) and (g) of claim 1) in col. 7, lines 53-61; col. 10, lines 41-63; and col. 10, lines 29-34 and 56-63. The Office Action further states that Elabbady shows that "media content file is protected and license on media sharing device is needed to play. License may be associated with device. Determine that device 300 is registered. A registered device is able to receive license and play media content, i.e. a device that is not registered and/or without license cannot play content." The quoted passages are recited here:

> [Col. 7, lines 53-61] Thus, in accordance with certain implementations of the present invention, media LS 207 employs a media content license scheme that essentially requires that a proper license exists to process/play the media content. The media content license may be associated with an individual media content file or with multiple media content files.
>
> [Col. 10, lines 41-63] In act #9, the media content file is provided to a media decoder/player function 324, which attempts to decode the file and play it. If media decoder/player function 324 does not have a necessary license for the media content file, should it be protected, then in act #10 a corresponding license request is initiated by license client 326. License client 326 request a media playing license from a license generator 312 of network

> device manager 302 of device 202. Here, for example, the media playing license request may include a request for a portable media license by identifying the serial number of the media content and possibly other identifying information about device 300 and/or the user. In act #12, the request information is provided to network store 306, which looks up registration information based on the serial number, for example. In act #13 the registration information/result is provided to license generator 312. If the license generator is satisfied that device 300 is properly registered, then in act #14, license generator 312 requests a license from a DRM client 316. DRM client 316 determines if a license is available and returns the license to license generator 312. License generator 312 then provides the license to license client 326, in act #15. The license is then provided to media decoder/player 324, which can then proceed with the decoding and playing of the media content file.
>
> [Col. 10, lines 29-34, 56-63] Here, in act #6, HTTP client 318 requests a selected media content file. For example, an HTTP GET (URL) or File 10 (UNC) command may be used. The request is handled by a corresponding content server 320 within device 206. Content server 320 accesses the selected media content file, which in this example, is stored in content database 322. … In act #13 the registration information/result is provided to license generator 312. If the license generator is satisfied that device 300 is properly registered, then in act #14, license generator 312 requests a license from a DRM client 316. DRM client 316 determines if a license is available and returns the license to license generator 312. License generator 312 then provides the license to license client 326, in act #15. The license is then provided to media decoder/player 324, which can then proceed with the decoding and playing of the media content file.

Again, the cited passages of Elabbady merely disclose "employ[ing] a media content license scheme that essentially requires that a proper license exists to process/play the media content." In contrast to limitations (f) and (g) of claim 1, Elabbady fails to teach or suggest playing or presenting the bound content through a compatible compliant

device that is bound to the hub network, and not playing or presenting content bound to another hub network (e.g., a second network).

Reading limitations (f) and (g) of claim 1 in light of the specification, the "bound content" concept of claim 1 "binds" the content to a particular hub network by storing the license for the content and the locked content data itself in a storage device residing within the particular hub network. These limitations further recite that "the bound content can only be played or presented through a compatible compliant device that is bound to the hub network, wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network". In contrast, the Elabbady's license scheme requires the media device to check the license that is associated with the content or entity before playing the content. Further, in contrast to the Elabbady's license scheme, claim 1 allows any compatible compliant device that is bound to that particular hub network to play or present the content on the device, once the content is "bound" to the particular hub network.

Regarding limitation (h) of claim 1, it recites "wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance." This limitation is disclosed in at least page 5, line 28 to page 6, line 14 of the specification as filed. This paragraph is recited here as follows (emphasis added):

> [Page 5, line 28 to Page 6, line 14] As discussed below, an instance that is compliant with hub network operation is in one of two exclusive states: discrete or bound. A discrete instance is independent of any hub network and can be played or presented through any compliant device (according to the license of the discrete instance). However, a compliant device cannot make a usable copy of a discrete instance. … A bound instance can only be played or presented through a compatible compliant device that is a member of that hub network. …

The Office Action states that Peinado teaches this limitation in col. 2, lines 40-43; col. 17,

lines 9-15; col. 17, lines 51-56; col. 37, lines 15-21; and col. 38, lines 39-52. The quoted passages are recited here:

> [col. 2, lines 40-43] As but one example, such a trusted software component prevents a user of the computing device from making a copy of such digital content, except as otherwise allowed for by the content owner thereof.
>
> [col. 17, lines 9-15] In particular, the license evaluator 36 determines whether the requesting user has the right to play the requested digital content 12 based on the rights description in each license 16 and based on what the user is attempting to do with the digital content 12. For example, such rights description may allow the user to render the digital content 12 into a sound, but not into a decrypted digital copy.
>
> [col. 17, lines 51-56] For example, the content owner of such digital content 12 may have directed that no license 16 be granted to allow a user to print a text document, or to copy a multimedia presentation into an un-encrypted form.
>
> [col. 37, lines 15-21] … the portable device 62 at the appropriate time by application of the black box private key of the portable device 62 (PR-BB-PD), and the sub-license 16s is therefore tied or bound to the portable device 62. As should be appreciated, without re-encrypting the content key (KD), the portable device 62, which would not know (PR-BB-CO), would not be able to decrypt (PU-BB-CO (KD)) to obtain (KD).

In contrast to limitation (h) of claim 1, which states that "a compliant device operates according to processes defined for a device that is a member of a hub network and does not make a usable copy of a discrete instance," wherein it is interpreted from the specification that a "discrete instance" is independent of any hub network, the above-recited passages of Peinado merely disclose that "a trusted software component prevents a user of the computing device from making a copy of such digital content, except as otherwise allowed for by the content owner" through the use of a license. These passages do not include a concept of a "discrete instance" of content.

The Office Action further notes that "the claim does not define "discrete instance" as being "independent of any hub network". However, the fact that a "discrete instance" is interpreted as being an instance that is "independent of any hub network" is described in the specification, page 5, line 28 to page 6, line 14.

Based on the foregoing discussions, claim 1 should be allowable over the combination of Elabbady and Peinado. Regarding independent claims 15 and 16, similar arguments as those of claim 1 apply, since claims 15 and 16 recite and include substantially similar limitations. Regarding claim 18, it also recites and includes substantially similar limitations as those of claim 1. Claim 18 was amended in the response to the Office Action to clarify the concept of having two different hub networks (because the Examiner indicated in the previous office action that claim 18 includes a "hub network" and a "second hub network" without having a "first hub network"). Claim 18 was amended to change the "second hub network" to "another hub network different than said hub network". The Advisory Action did not enter this amendment stating that the applicant added new matter. However, claims 15, 16, and 18 should be allowable over the combination of Elabbady and Peinado. Since claims 2-11, 13-14, 17, and 19-21 depend from one of claims 1, 16, and 18, claims 2-11, 13-14, 17, and 19-21 should also be allowable over the combination of Elabbady and Peinado.

Accordingly, the Board should reject the improper assertions by the Examiner as explained in this section.

B. Claim 12 is patentable over Elabbady and Peinado, in view of Rofheart under 35 U.S.C. §103(a)

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elabbady and Peinado, in view of Rofheart. As explained in the Manual of Patent Examination Procedure §706.02, entitled Rejection on Prior Art, for obviousness under 35 U.S.C. §103, "to support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would

have found the claimed invention to have been obvious in light of the teachings of the references." As set forth in detail below, the outstanding rejections are improper because the cited references do not suggest the claimed invention either explicitly or impliedly, or the examiner did not present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the cited references.

Regarding claim 12, it recites "wherein a local environment for a hub network is a limited logical area defined relative to the position of a server in a hub network of the member." This limitation is disclosed in at least page 4, line 31 to page 5, line 2 and page 13, lines 14-21 of the specification as filed. These passages are recited here as follows:

> [Page 4, line 31 to Page 5, line 2] In this example, the local environment for the PVR 105 is defined as a physical area relative to the position of the PVR 105 (e.g., determined by round trip packet timing or GPS information).
>
> [Page 13, lines 14-21] The local environment is defined as a limited area such that a compliant device can determine whether the device is in or out of the local environment. For example, one local environment can be defined in terms of physical location (e.g., by calculating the round trip time for packets to travel from server to client, or using geographical positioning data from a GPS system integral to the device), while another local environment is defined in terms of network addressing information (e.g., using IP address and/or subnet information) or logical area (e.g., evaluating network configuration using the number of gateways or routers traversed by a packet).

The Office Action indicates that Rofheart discloses claim 12 in col. 4, lines 5-8 and 22-26. The quoted passages are recited here:

> [Col. 4, lines 5-8] According to another aspect of the invention, the time between the transmitting of the message and the receiving of the response may be used to determine a distance from the local device to the remote device.

> [Col. 4 lines 22-26] In another aspect of the present invention, communicating with the remote device based on the distance determined includes setting an authentication criteria in the local device, comparing the authentication criteria with the distance from the local device to the remote device …

As can be seen, these passages of Rofheart merely states that "the time between the transmitting of the message and the receiving of the response may be used to determine a distance from the local device to the remote device." These passages fails to teach or suggest defining a local environment for a hub network as a limited logical area relative to the position of a server in a hub network of the member, as recited in claim 12. Further, even assuming arguendo that Rofheart does teach the limitation of claim 12, the combination of Elabbady, Peinado, and Rofheart fails to disclose the above-discussed limitations of the base claim (claim 1). Therefore, claim 12 should be allowable over the combination of Elabbady, Peinado, and Rofheart.

Accordingly, the Board should reject the improper assertions by the Examiner as explained above.

CONCLUSION

In view of the foregoing, Appellants respectfully submit that the claimed invention is patentable over the references of record. The Examiner has failed to identify or provide teachings in the references for each of the claim limitations. Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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(viii) Claims Appendix

1. A network comprising:

a first hub network including a first server, a first client, and a second client,

wherein said first server is connected to said first client and said second client;

a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap,

wherein two hub networks overlap when both of the hub networks include at least one same device;

wherein said first client stores first content bound to said first hub network and stores second content bound to said second hub network, and

wherein content bound to a hub network is represented by locked content data and corresponding licenses stored on a server connected to the hub network, and the bound content can only be played or presented through a compatible compliant device that is bound to the hub network,

wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network, and

wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance.

2. The network of claim 1, wherein said first server, said first client, and said second server are each compliant devices, and

a compliant device that is a member of a hub network will not play or present bound content that is not bound to a hub network of said member.

3. The network of claim 1, wherein said first client stores said first content in a first sub-copy version having a first license bound to said first hub network and stores

said second content in a second sub-copy version having a second license bound to said second hub network, and

wherein a sub-copy version is a copy of the locked content data representing bound content bound to a hub network.

4. The network of claim 3, wherein said first client is a compliant device, and

a compliant device that is a member of a hub network will not present bound content that is not bound to a hub network of said member.

5. The network of claim 3, wherein each sub-copy version has a corresponding license that is bound to only one hub network.

6. The network of claim 1, wherein

said first server stores said first content bound to said first hub network, and

said second server stores said second content bound to said second hub network.

7. The network of claim 6, wherein

said first server stores said first content in a first source version of locked content data, and

said second server stores said second content in a second source version of locked content data.

8. The network of claim 7, wherein

said first source version has a corresponding first root license bound to said first hub network, and

said second source version has a corresponding second root license bound to said second hub network.

9. The network of claim 1, wherein

said first hub network defines a first local environment based on said first server, such that the compatible compliant device can join said first hub network while in the first local environment, and

said second hub network defines a second local environment based on said second server, such that the compatible compliant device can join said second hub network while in the second local environment.

10. The network of claim 9, wherein a local environment for a hub network is a limited area defined relative to a server in a hub network of the member.

11. The network of claim 9, wherein a local environment for a hub network is a limited logical area defined relative to the position of a server in a hub network of the member.

12. The network of claim 9, wherein a local environment for a hub network is defined by travel time of packets within a hub network of the member.

13. The network of claim 1, wherein

said first hub network has a first local environment,

said second hub network has a second local environment, and

said first local environment and said second local environment overlap such that said first server, said first client, and said second server are each in both the first local environment and the second local environment.

14. The network of claim 1, wherein

said first client is connected to a terminal device for presenting content, and

said terminal device is not a member of said first hub network and is not a member of said second hub network.

15. A network comprising:

a first hub network including a first server, a first client, and a second client,

wherein said first server is connected to said first client and said second client;

a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap,

wherein two hub networks overlap when both of the hub networks include at least one same device;

wherein said first server stores first content in a first source version of locked content data,

said first server stores a first root license bound to said first hub network for said first source version,

said second server stores second content in a second source version of locked content data,

said second server stores a second root license bound to said second hub network for said second source version,

said first client receives said first content streamed from said first source version by said first server, and

said first client receives said second content streamed from said second source version by said second server, and

wherein a source version of locked content data which is bound to a hub network by a root license can only be played or presented through a compatible compliant device that is a member of the hub network,

wherein said second client connected to said first server and bound to said first hub network can play or present the first content bound to said first hub network, but cannot play or present the second content bound to said second hub network, and

wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance.

16. A network comprising:

a first hub network including a first server;

a second hub network including a second server and said first server, and said second server is connected to said first server, such that said first hub network and said second hub network overlap,

wherein two hub networks overlap when both of the hub networks include at least one same device;

wherein said first server stores a first license and a first version of locked content data, and said first version stores first content,

said first server stores a second license and a second version of locked content data, and said second version stores second content,

said first license is bound to said first hub network,

said second license is bound to said second hub network, and

wherein a version of locked content data which is bound to a hub network by a license can only be played or presented through a compatible compliant device that is a member of the hub network,

wherein said second server bound to said second hub network can play or present the second content whose second license is bound to said second hub network, but cannot play or present the first content whose license is bound to said first hub network, and

wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance.

17. The network of claim 16, wherein

said second server stores a third license and a third version of locked content data,

said third version stores said second content, and

said third license is bound to said second hub network.

18. A hub network, comprising:

a server storing a root license and a source version of locked content data;

a client connected to said server, and storing a first license, a first sub-copy version of locked content data, a second license, and a second sub-copy version of locked content data;

wherein said source version of locked content data stores first content,

said root license is bound to said hub network,

said first sub-copy version stores said first content,

said first license is bound to said hub network,

said second sub-copy version stores second content, and

said second license is bound to a second hub network,

wherein a source version of locked content data which is bound to said hub network by a root license can only be played or presented through a compatible compliant device that is a member of said hub network,

wherein said second sub-copy version bound to said second hub network by said second license cannot be played or presented through the device that is a member of said hub network, and

wherein a compliant device operates according to processes defined for a device that is a member of a hub network and cannot make a usable copy of a discrete instance.

19. The hub network of claim 18, wherein said hub network defines a local environment including said server and said client.

20. The hub network of claim 19, wherein said local environment is a limited area defined relative to said server.

21. The hub network of claim 18, wherein said client is a compliant device, and a compliant device that is a member of a hub network will not present bound content without a license that is bound to a hub network of said member.

(ix) Evidence Appendix

None.

(x) Related Proceedings Appendix

None.